

Appln No. 10/647,096  
Amdt date April 13, 2006  
Reply to Office action of November 16, 2005

### REMARKS/ARGUMENTS

This amendment is submitted in response to the final Office action mailed November 16, 2005. Claims 1, 13-26 and 35 are cancelled without prejudice. Claims 2-12, 27, 29, 31-34 and 36 are amended. Claims 2-12, 27-34 and 36 remain in the application.

#### Summary of Interview

On March 7, 2006, a telephone interview was conducted between the undersigned and Examiner Alvin J. Stewart. Allowable claim 27 was discussed in view of Figs. 1 and 7 of the Kohrs patent (5,897,593). It was noted that the Kohrs device disclosed a threaded implant. The implant is placed sideways relative to, and threads into, the adjacent vertebrae. In contrast, because the spacer of the present invention is aligned with the vertebrae, the jacket wall of the spacer can be unthreaded. The Examiner indicated that the proposed change to claim 27, namely reciting an unthreaded jacket wall, would be acceptable and that claim 27 would be allowable. The undersigned wishes to thank the Examiner for the time and attention devoted to the interview. The undersigned also invites the Examiner to telephone the undersigned concerning any issue that may be necessary to place the application in condition for allowance.

On page 3 of the Office action, claims 27-33 and 35-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Except for claim 34, the claims have been amended as suggested by the Examiner. Claim 34 is amended to include all of claim 35, except it refers to "at least one of" the first and second ends. It is not considered necessary to expand or narrow both ends. In addition, claims 29 and 31-33 have been amended to provide antecedent basis and claim 36 has been amended to correct a spelling error. Accordingly, claims 27-34 and 36 are believed to be in condition for allowance.

Withdrawn claims 2-12 have been amended to depend from allowable claim 34 to provide antecedent basis. Applicant respectfully requests that claims 2-12 be allowed.

The specification has been amended. At the bottom of page 1, the last portion of the sentence was inadvertently omitted. The omitted portion has been added. Support for the

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addition is found throughout the specification, including page 8, lines 11-15 and the original claims. Two paragraphs on page 2 were amended to correct spelling errors. Page 4 was amended to refer to an "unthreaded" jacket wall. Support is found in the drawings. Applicant respectfully requests that the Examiner carefully review and approve the changes to the specification.

In view of the above, applicant respectfully requests reconsideration of the application and the allowance of claims 2-12, 27-34 and 36.

Respectfully submitted,

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